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UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

Service and Regulatory Announcements No. 159

REGULATIONS
FOR
WAREHOUSEMEN STORING
COLD-PACK FRUIT

Approved July 2, 1940
Amended September 20, 1940

REGULATIONS OF THE SECRETARY OF AGRICULTURE
UNDER THE UNITED STATES WAREHOUSE
ACT OF AUGUST 11, 1916
AS AMENDED

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United States Department of Agriculture
AGRICULTURAL MARKETING SERVICE
SERVICE AND REGULATORY ANNOUNCEMENTS NO. 159
(Supersedes S. R. A. No. 111)

**REGULATIONS FOR WAREHOUSEMEN STORING COLD-
PACK FRUIT UNDER THE UNITED STATES WARE-
HOUSE ACT**

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

By virtue of the authority vested in the Secretary of Agriculture by the United States Warehouse Act, approved August 11, 1916 (39 Stat. 490; 7 U.S.C. 268), as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following regulations (Part 112 of Title 7 of Code of Federal Regulations) to be known as the regulations for warehousemen storing cold-pack fruit, and to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said act. These regulations shall supersede all regulations issued under said act heretofore for cold-pack fruit warehouses.

(Title 7, Ch. I, Pt. 112 of the Code of Federal Regulations)

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DEFINITIONS

112.1 Meaning of words.—Words used in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

112.2 Terms defined.—For the purposes of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Cold-pack fruit.*—The clean, sound product obtained by packing under the following minimum specifications, in suitable containers, properly matured and prepared fresh fruit and berries, with or without the addition of sugar (sucrose), and by maintaining it at a temperature sufficiently low to insure its preservation:

(1) All containers shall be marked as of a certain variety and shall be true to name—for example: Straight or 2 plus 1 Cuthbert raspberries or Marshall strawberries; provided a tolerance of 5 percent for other varieties may be allowed.

(2) All barrels shall be new, shall have six hoops, shall be properly paraffin lined, and shall be made of fir or other suitable wood.

(3) All cans used for containers and storing of berries shall be enamel lined.

(4) Packing plants shall be kept in a clean and sanitary condition. Products packed in open fields, open sheds, or barns, or within too close proximity to any barn, cesspool, or refuse dump shall be denied eligibility for storage.

(5) Within 12 hours after packing, all berries and fruits to be stored under this act shall be in a sharp room having a temperature not in excess of zero and shall be held in such sharp room for at least 48 hours before being placed in regular cold-storage rooms: *Provided*, That berries to which has been added not more than one-tenth of 1 percent of benzoate of soda by weight shall not be placed in such sharp room but such berries shall be placed within 12 hours after packing in regular cold-storage rooms having a temperature not lower than 32° nor higher than 40° F.

(6) All barrels shall be filled approximately as follows: 2 plus 1—150 pounds of sugar to 300 pounds fruit, making a total of 450 pounds. Straight berries, 375 pounds berries.

(7) Neither ice, nor water, nor sugar in solution shall be added.

(8) If berries are sugared, sugar and berries are to be weighed separately, and not to exceed 2 percent variation in sugar may be allowed.

(9) All berries or fruits, when dirty, shall be washed in clean water and drained before weighing.

(10) All containers must be coded to determine when, where, and by whom they were packed.

(11) The weight mark on barrels is to be the in-weight and the tare is to be the tare of containers before filling.

(b) *The act.*—The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241–273), as amended.

(c) *Person.*—An individual, corporation, partnership, or two or more persons having a joint or common interest.

(d) *Secretary.*—The Secretary of Agriculture of the United States.

(e) *Chief of the Service.*—The Chief of the Agricultural Marketing Service.

(f) *Designated representative.*—The Chief of the Agricultural Marketing Service of the United States Department of Agriculture.

(g) *Regulations*.—Rules and regulations made under the act by the Secretary.

(h) *Service*.—The Agricultural Marketing Service of the United States Department of Agriculture.

(i) *Warehouse*.—Unless otherwise clearly indicated by the context, any suitable building, structure, or other protected inclosure licensed or to be licensed under the act, in which cold-pack fruit is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which cold-pack fruit is or may be stored.

(j) *Warehouseman*.—Any person lawfully engaged in the business of storing cold-pack fruit, who holds an effective warehouseman's license under the act, or who has applied for such a license.

(k) *License*.—A license issued under the act by the Secretary.

(l) *Licensed warehouseman's bond*.—A bond required to be given under the act by a licensed warehouseman.

(m) *Licensed inspector*.—A person licensed under the act by the Secretary to sample, to inspect, to grade, and to weigh and to certificate the grade, condition, and weight of cold-pack fruit for storage.

(n) *Receipt*.—A licensed warehouse receipt issued under the act, unless otherwise specified.

WAREHOUSE LICENSES

112.3 Application forms.—Applications for licenses and for modifications or extensions of licenses under the act shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Service, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary or the Chief of the Service shall find to be necessary to the consideration of his application.

112.4 Grounds for not issuing license.—A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of cold-pack fruit, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and these regulations, or that there is any other sufficient reason within the purposes of the act for not issuing such license.

112.5 Net assets required.—The warehouseman conducting a warehouse licensed or for which application for license has been made under the act shall have and maintain above all exemptions and liabilities net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least \$5 for each 1,000 pounds, or fraction thereof, of the maximum number of pounds of cold-pack fruit that the warehouse will accommodate when stored in the manner customary to the warehouse as determined by the Chief of the Service, provided that the amount of such assets shall not be less than \$5,000 and need not be more than \$100,000.

If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock, as such, shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with section 112.12 (b).

112.6 License shall be posted.—Immediately upon receipt of his license or of any modification or extension thereof under the act, the warehouseman shall post the same and thereafter, except as otherwise provided in these regulations, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

112.7 Suspension or revocation of warehouse license.—Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing when possible has been afforded in the manner prescribed in this section, revoke

a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent; (b) has parted in whole or in part, with his control over the licensed warehouse; (c) is in process of dissolution or has been dissolved; (d) has ceased to conduct such licensed warehouse; or (e) has in any other manner become incompetent or incapacitated to conduct the business of the warehouse. Whenever any of the conditions mentioned in the subdivisions (a) to (e) of this section shall come into existence it shall be the duty of the warehouseman to notify immediately the Chief of the Service of the existing condition. Before a license is revoked for any violation of, or failure to comply with any provision of the act, or of these regulations, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or his designated representative, a written statement specifying the charges, and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with section 112.73.

112.8 Return of terminated, suspended, or revoked warehouse license.—When a license issued to a warehouseman terminates or is suspended or revoked by the Secretary, or his designated representative, it shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the licensed warehouseman to whom it was originally issued, and it shall be posted as required in section 112.6: *Provided*, That in the discretion of the Chief of the Service a new license may be issued without reference to such suspension.

112.9 Lost or destroyed warehouse license.—Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof may be issued under the same number.

112.10 Unlicensed warehousemen must not represent themselves as licensed.—No warehouse or its warehouseman shall be designated as licensed under the act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended or unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

112.11 Time of filing.—Unless the warehouseman has previously filed with the Secretary the necessary bond required by section 112.12, he shall file such bond within a time, if any, specified by the Secretary, or his designated representative, such bond to cover all obligations arising thereunder during the period of the license.

112.12 Basis of amount of bond; additional amounts.—(a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of \$5 for each 1,000 pounds or fraction thereof, of the maximum number of pounds of cold-pack fruit that the warehouse will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the Chief of the Service, but not less than \$5,000 nor more than \$50,000. If such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and these regulations for said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under sections 112.11–112.15. The amount of any bond covering more than one warehouse shall be determined on the same basis as for a single warehouse, but with the maximum amount raised to \$100,000.

(b) In case of a deficiency in net assets under section 112.5, there shall be added to the amount of the bond fixed in accordance with paragraph (a) of this section an amount equal to such deficiency.

(c) If the Secretary, or his designated representative, finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs (a) and (b) of this section a further amount, fixed by him, to meet such conditions.

112.13 Amendment of license.—If application is made under section 112.3, for an amendment of a license, and no bond previously filed by the ware-

houseman under sections 112.11–112.15 covers obligations incurred during the period of such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act, unless bond in sufficient amount has been filed since the filing of such application. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and these regulations may be filed in lieu of a new bond.

112.14 New bond required each year.—Whenever a license has been issued for a period longer than 1 year, such license shall not be effective beyond 1 year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary, or his designated representative, prior to the date on which that license would have expired had it been issued for but 1 year, subject to the provisions of section 112.13.

112.15 Approval of bond.—No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of the act and these regulations until it has been approved by the Secretary, or his designated representative.

WAREHOUSE RECEIPTS

112.16 Form.—(a) Every receipt, whether negotiable or nonnegotiable, issued for cold-pack fruit stored in a warehouse shall, in addition to complying with the requirements of section 18 of the act (42 Stat. 1284; 7 U.S.C. 260), embody within its written or printed terms the following: (1) The name of the licensed warehouseman and the designation, if any, of the warehouse; (2) the license number of the warehouse; (3) a statement whether the warehouseman is incorporated or unincorporated, and if incorporated, under what laws; (4) the lot number given to each lot of cold-pack fruit, in accordance with section 112.32; (5) a statement conspicuously placed, whether or not the cold-pack fruit is insured, and if insured, to what extent, by the warehouseman against loss by fire, lightning, or tornado; (6) a blank space designated for the purpose in which the kind of cold-pack fruit shall be stated; (7) a blank space in which the packer's code or other identifying marks shall be stated; (8) a blank space in which the number, kind, and size of the containers, if barrels, but if in cans the number of cases and size of cans, shall be stated; (9) the words "Negotiable" or "Nonnegotiable"; (10) the condition in which the barrels or other containers were received for storage; (11) a blank space in which to designate the gross, tare, and net inweights; (12) whether the receipt is an "original" or "copy," according to the nature of the receipt; and (13) in the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship.

(b) Every receipt, whether negotiable or nonnegotiable, issued for cold-pack fruit stored in a warehouse, shall specify a period, not exceeding 1 year, for which the cold-pack fruit is accepted for storage under the act and these regulations; *Provided*, That receipts covering berries packed with benzoate of soda shall in no event be issued for a period beyond April 30 following the year in which packed. Upon demand and surrender of the old receipt by the lawful holder thereof, at or before the expiration of the period specified, the warehouseman, upon such lawful terms and conditions as may be granted by him to other depositors of cold-pack fruit in his warehouse, if he then continue to act as a licensed warehouseman, shall issue a new licensed receipt for a further specified period, not exceeding 6 months; provided it is actually determined by a licensed inspector that the cold-pack fruit has not deteriorated and that it is in proper condition for storage.

(c) The grade stated in a receipt issued for cold-pack fruit stored in a licensed warehouse shall be stated as determined by the licensed inspector who last inspected the cold-pack fruit before the issuance of such receipt, and such receipt shall embody within its written or printed terms the following: (1) that the cold-pack fruit covered by the receipt was inspected, graded, and weighed by a licensed inspector, grader, and weigher; and (2) a form of endorsement

which may be used by the depositor, or his authorized agent, for showing the ownership of, and liens, mortgages, or other encumbrances on the cold-pack fruit covered by the receipt.

(d) Whenever the grade is stated on a receipt issued for cold-pack fruit stored in a licensed warehouse, such grade shall be stated in accordance with sections 112.66–112.68.

(e) If a warehouseman issues a receipt omitting the statement of grade on request of the depositor as permitted by section 18 of the act (42 Stat. 1284; 7 U.S.C. 260), such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor."

(f) If a warehouseman issues a receipt under the act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

112.17 Copies of receipts.—If copies are made of receipts, all such copies, except those issued in lieu of the original in case of lost or destroyed receipts, shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not Negotiable." If copies are not made, then skeleton copies bearing the same numbers as the corresponding original receipts shall be made, but such skeleton copies need not be marked "Copy—Not Negotiable."

112.18 Lost or destroyed receipts; bond for.—(a) In the case of a lost or destroyed receipt, if there be no statute of the United States or law of a State applicable thereto, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out in paragraph (b) of this section.

(b) Before issuing such duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (1) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and, if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in amount double the value, at the time the bond is given, of the cold-pack fruit represented by the lost or destroyed receipt. Such bond shall be in the form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon (1) preferably a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the State in which the warehouse is located, or (2) at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the amount of the bond.

112.19 Approval of form of receipt.—No receipt shall be issued by a licensed warehouseman except it be (a) in form prescribed by the Chief of the Service; (b) upon distinctive paper specified by him; (c) printed by a printer with whom the United States has a subsisting contract and bond for such printing; and (d) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper.

112.20 Partial delivery of cold-pack fruit.—If a warehouseman deliver a part only of a lot of cold-pack fruit for which he has issued a negotiable receipt under the act, he shall take up and cancel such receipt and issue a new receipt bearing the same lot number for the undelivered portion of the cold-pack fruit. In addition to showing the information required by section 112.16, the new receipt shall also indicate the date and number of the receipt which it supersedes.

112.21 Return of receipt before delivery of cold-pack fruit.—Except as permitted by law or by these regulations, a warehouseman shall not deliver cold-pack fruit for which he has issued a negotiable receipt until the receipt has been returned to him and canceled; and shall not deliver cold-pack fruit for which he has issued a nonnegotiable receipt until such receipt has been returned to him, or he has obtained from the person lawfully entitled to such delivery, or his authorized agent, a written order therefor.

112.22 Signatures of persons authorized to direct delivery to be filed with warehouseman.—Each person to whom a nonnegotiable receipt is issued shall

furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of cold-pack fruit covered by such receipt, together with the bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of cold-pack fruit covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release and that the signature of the releasing party is genuine: *Provided*, That if the holder of such nonnegotiable receipts agrees in writing to hold blameless both the warehouseman and bondsman for any loss that might result from improper delivery through receipt of an unauthorized telegram, deliveries may be made on receipt of telegraphic orders to be followed immediately with usual confirmation order.

112.23 Omission of grade; no compulsion by warehouseman.—No warehouseman shall, directly or indirectly, by any means whatever, compel or attempt to compel the depositor of any cold-pack fruit, stored in his licensed warehouse, to request the issuance of a receipt omitting the statement of grade.

DUTIES OF LICENSED WAREHOUSEMEN

112.24 Cold-pack fruit must be inspected.—No licensed warehouseman shall receive cold-pack fruit in his licensed warehouse for storage unless a licensed inspector has examined it and found it to be in proper condition and the warehouseman deems it suitable for storage: *Provided*, That under no conditions shall fruit be accepted which, according to the certificate issued by the licensed inspector at the packing plant, was packed more than 12 hours prior to the fruit reaching the proper storage room of the warehouseman. Before accepting any lot of fruit offered for storage the warehouseman shall receive under seal a copy of the certificate issued by the inspector who inspected the fruit at the packing plant. Under no circumstances shall any container or any cold-pack fruit be accepted for storage under the act and these regulations unless the containers and the fruit both are in conformity with these regulations. If the cold-pack fruit when offered for storage is in cans, the warehouseman shall refuse to accept for storage all swells, leakers, rusty cans, or any cold-pack fruit known to be in violation of either State or Federal food and drug laws.

112.25 Insurance; requirements.—(a) Each warehouseman, when so requested in writing by the depositor or the lawful holder of the receipt for cold-pack fruit, shall, to the extent to which in the exercise of due diligence he is able to procure such insurance, keep such cold-pack fruit while in his custody insured in his own name, or arrange for its insurance otherwise, to the extent so requested, against loss or damage by fire, lightning, and/or tornado. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business, and subject to service of process in suits brought in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall orally or by telegraph, or by telephone immediately notify the person making the request. When insurance is not carried in the warehouseman's name, the receipt shall show that the cold-pack fruit is not insured by him. Nothing in this section shall be construed to prevent a warehouseman from adopting a rule that he will insure all cold-pack fruit against loss by fire, lightning, tornado, or break-downs of machinery and equipment.

(b) Each warehouseman shall keep exposed conspicuously in the place prescribed by section 112.6 and at such other place as the Chief of the Service, or his representative, may from time to time designate, a notice stating briefly the conditions under which cold-pack fruit will be insured against loss or damage by fire, lightning, and/or tornado.

(c) Each warehouseman shall take promptly such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of these regulations, and shall, as soon as collected, pay promptly to the persons concerned any portion of such moneys which they may be entitled to receive from him.

112.26 Premiums; inspections; reports.—Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of these regulations, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

112.27 Care of cold-pack fruit in storage.—Each warehouseman shall at all times exercise such care in regard to cold-pack fruit in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

After the product leaves the sharp room he must at all times keep it stored in rooms having a temperature not in excess of 20° F.; provided, that in the case of berries packed with benzoate of soda a temperature not less than 32° F. nor in excess of 40° F. must be maintained at all times, and temperature readings made at least four times in every 24 hours shall be kept.

112.28 Care of nonlicensed cold-pack fruit, or other commodities.—If at any time a warehouseman shall handle cold-pack fruit other than for storage, or shall handle or store any other commodity, he shall so protect the same and otherwise exercise such care with respect to them as not to endanger the cold-pack fruit in his custody as a licensed warehouseman, or impair his ability to meet his obligations and perform his duties under the act and these regulations. If the warehouseman shall store commodities other than those for which he is licensed, a nonlicensed receipt shall be issued, which shall contain in its terms a provision that said commodities are accepted for storage only until such time as the space which they may occupy may be needed for products for the storage of which the warehouseman is licensed. Under no circumstances shall any commodities for the storage of which the warehouseman is not licensed be stored if the storage of such commodities might adversely affect the commercial value of or impair the insurance on cold-pack fruit covered by licensed receipts.

112.29 Records to be kept in safe place.—Each warehouseman shall provide a metal fireproof safe, a fireproof vault, or a fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the warehouse, including his current receipt book, copies of receipts issued, and canceled receipts, except that with the written consent of the Chief of the Service, or his representative, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety approved by the Chief of the Service or his representative. All canceled receipts shall be arranged by the warehouseman in numerical order as soon as possible after their cancelation and shall be preserved in numerical order thereafter.

112.30 Warehouse charges.—A warehouseman shall not make any unreasonable or exorbitant charge for service rendered. Before a license to conduct a warehouse is granted under the act the warehouseman shall file with the Service a copy of his rules and a schedule of charges to be made by him if licensed. Before making any change in such rules or schedules of charges, he shall file with the Service a statement in writing showing the proposed change and the reasons therefor. Each warehouseman shall keep exposed conspicuously in the place prescribed by section 112.6, and at such other places, accessible to the public, as the Chief of the Service or his representative may from time to time designate, a copy of his current rules and schedule of charges.

112.31 Business hours.—Each warehouseman shall have his facilities available continuously during the packing season for the purpose of receiving cold-pack fruit for storage and delivering cold-pack fruit out of storage, provided that no fruit shall be received during any period of a breakdown. At all times other than during the packing season the warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open. Such notice shall also indicate the name and address of the person authorized to make delivery upon lawful demand and surrender of the receipt.

112.32 Identification of lots.—Each warehouseman shall, upon acceptance for storage of any lot of cold-pack fruit, so store the same that the identity of the lot will be preserved. If several deliveries to the warehouse are made at daily or other intervals of time, the lot number given to the first delivery of a depositor shall be given to each delivery until the lot has been completed, provided subsequent deliveries to the warehouse are all piled with the first lot. To every such completed lot and to every uncompleted lot the warehouseman shall affix a lot card or identification tag to the beam, if any, above the stored goods, or to the nearest available place to such stored goods, and he shall also affix a lot card or identification tag to one of the outer rows of barrels or containers, which shall be at all times visible and a further means of identifying the lot with the receipt that covers it.

112.33 Lot card record.—The warehouseman shall indicate on the lot card or identification tag mentioned in section 112.32 (a) the name of the licensed ware-

houseman; (b) the lot number assigned to the lot of cold-pack fruit; (c) the number of containers in the lot; (d) the size of such containers; (e) the packer's code mark; (f) the dates received in storage; (g) the number of the receipt covering the lot; (h) the kind of cold-pack fruit that is in the containers, and the grade thereof when grade has been determined.

112.34 System of accounts.—Each warehouseman shall use for his warehouse a system of accounts, approved for the purpose by the Chief of the Service, or his authorized representative, which will show for each lot of cold-pack fruit the name and address of the depositor, the lot number mentioned in section 112.32, the depositor's code and other identifying marks of the lot, the number of barrels or containers, the grade when grade is determined, the kind of cold-pack fruit in the lot, the size of the cans when cold-pack fruit is stored in such containers, or the number of cases that would be occupied by such cans if they were cased, the dates received into and delivered out of storage, and the receipts issued and canceled. Such accounts shall include a detailed record of all moneys received and disbursed and all effective insurance policies, if any. A separate record for each depositor shall be kept.

112.35 Reports.—Each warehouseman shall, from time to time, make such reports as the Chief of the Service may require, on forms prescribed and furnished for the purpose by the Service, concerning the conditions, contents, operation, and business of the warehouse.

112.36 Copies of reports to be kept.—Each warehouseman shall keep on file, as a part of the records of the warehouse, for such period as may be prescribed by the Service, an exact copy of each report submitted by such warehouseman under sections 112.35, 112.48.

112.37 Canceled receipts; auditing.—Each warehouseman, when requested by the Service shall forward his canceled receipts for auditing to Washington or to such field offices of the Service as may be designated from time to time. For the purpose of this section, only such portion as the Service may designate of each canceled receipt, numbered to correspond with the actual receipt number, need be submitted.

112.38 Inspections and examinations of warehouses.—Each warehouseman shall permit any officer or agent of the Department of Agriculture, including inspectors under the Federal Food, Drug, and Cosmetic Act, authorized by the Secretary for the purpose, to enter and inspect or examine at any time any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and shall furnish such officer or agent the assistance necessary to enable him to make such inspection or examination under this section.

112.39 Inspection of weighing, testing, measuring apparatus.—The apparatus used for determining the weight, quantity, or quality stated in a receipt or certificate shall be subject to examination by any officer or agent of the Department of Agriculture employed for such purpose. If the Service shall disapprove such apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight, quantity, or quality of cold-pack fruit for the purposes of the act and these regulations.

112.40 Care of warehouses.—Each warehouseman shall keep the stock stored in his licensed warehouse in an orderly manner, shall provide sufficient aisle space so as to permit easy and ready access to any and all lots of cold-pack fruit, and shall so store each lot as to facilitate sampling of cold-pack fruit and inspection for condition.

112.41 Signs of tenancy.—(a) Each licensed warehouseman shall, during the life of his license, maintain suitable signs on the licensed property in such a manner as will give ample notice of his tenancy of all buildings or parts thereof included in his license.

(b) Such signs shall be of appropriate size and design and shall include the following: (1) The name of the licensee, (2) the license number of the warehouse, (3) whether the warehouseman is owner or lessee, and (4) the words "Public Warehouse."

(c) Such other wording or lettering may appear in the sign or signs not inconsistent with the purpose of the act and these regulations, subject to the approval of the Service.

(d) Upon the expiration of his license, or during periods of suspension thereof, the warehouseman shall immediately remove such signs or portions thereof as may convey the impression that the warehouse is licensed.

(e) The warehouseman shall not permit any signs to remain on his licensed property which might lead to confusion as to the tenancy.

112.42 Deteriorating goods; handling.—If the warehouseman considers that any cold-pack fruit in his warehouse is out of condition, or becoming so, he shall direct a licensed inspector to examine the cold-pack fruit in question, and if such inspector finds such cold-pack fruit to be out of condition or becoming so, the warehouseman shall give immediate notice of the facts in the manner and to the persons specified in section 112.43 (a), (b), and (c).

112.43 Notification of deteriorating cold-pack fruit.—(a) The notice required by section 112.42 shall state (1) the warehouse in which the cold-pack fruit is stored; (2) the quantity, kind, and grade of the cold-pack fruit at the time the notice is given; (3) the actual condition of the cold-pack fruit as nearly as can be ascertained and the reason, if known, for such conditions; and (4) the outstanding receipts covering the cold-pack fruit in question, giving the number and date of each such receipt and the quantity, kind, and grade of the cold-pack fruit as stated in each receipt.

(b) A copy of such notice shall be delivered in person or shall be sent by mail (1) to the person holding the receipts if known to the warehouseman; (2) to the person who originally deposited the cold-pack fruit; (3) to any other persons known by the licensed warehouseman to be interested in the cold-pack fruit; (4) to the Chief of the Service; and (5) public notice shall also be given by posting a copy of such notice at the place where the warehouseman is required to post his license. If either the holder of the receipts or the owner or owners, or both, of the cold-pack fruit are known to the warehouseman and cannot in the regular course of the mails be reached within 12 hours, the warehouseman shall, whether or not requested so to do also immediately notify such persons by telegraph or telephone at their expense.

(c) Any person interested in any cold-pack fruit or the receipt covering such fruit stored in a licensed warehouse, may, in writing, notify the warehouseman of his interest, and such warehouseman shall keep a record of that fact. If such person requests in writing that he be notified regarding the condition of any cold-pack fruit and agrees to pay the cost of any telegraph or telephone toll charge, such warehouseman shall notify such person in accordance with such request.

(d) If the cold-pack fruit advertised in accordance with the requirements of this section have not been disposed of by the owner thereof within 5 days from the dispatch of notice of their being out of condition, the warehouseman in whose warehouse the cold-pack fruit is stored may sell the same at public auction at the expense and for the account of the owner, after giving 5 days' notice in the manner specified in paragraphs (a), (b), and (c) of this section.

(e) Nothing contained in this section shall be construed as relieving the warehouseman from properly caring for any cold-pack fruit after sending notification of its condition in accordance with this section.

112.44 Excess storage.—If at any time a warehouseman shall be offered for storage in his warehouse cold-pack fruit in excess of the licensed capacity as shown on his license, he shall not accept such cold-pack fruit until he has first secured authority through an amended license, and after such authority has been granted the warehouseman shall continue to arrange the cold-pack fruit so as not to obstruct free access thereto and the proper use of fire equipment provided for such warehouse.

112.45 Removal of cold-pack fruit from storage.—Except as may be permitted by law or these regulations a warehouseman shall not remove any cold-pack fruit from the warehouse, or the part thereof designated in the receipt, unless such receipt is first surrendered and canceled. If any cold-pack fruit is removed from the warehouse prior to the return and cancelation of the receipt, the warehouseman shall immediately notify the Chief of the Service of such removal and the necessity therefor.

112.46 Signatures of persons to sign receipts to be filed with Department.—Each warehouseman shall file with the Department the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouseman, and shall promptly notify the Department of any changes as to persons authorized to sign, and shall file signatures of such persons.

112.47 Breakage of equipment; notification.—If at any time the equipment or machinery of a warehouse breaks down, the warehouseman shall immediately notify by telegraph the Chief of the Service of such fact and advise when he

expects to be able to place such machinery or equipment in proper working order.

112.48 Fire loss to be reported by telegraph.—If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to notify immediately by telegraph the Chief of the Service of the occurrence of such fire and the extent of damage.

112.49 Copies of inspection certificates to be filed.—When an inspection, grade, and weight certificate has been issued by a licensed inspector, grader, and weigher, a copy of such certificate shall be filed with the warehouseman in whose warehouse the cold-pack fruit covered by such certificate is stored, and such certificate shall become a part of the records of the warehouseman.

FEES

112.50 Warehouse license fees.—There shall be charged, assessed, and collected a fee of \$10 for each warehouseman's license or any amendment thereto, and a fee of \$3 for each license issued to an inspector.

112.51 Warehouse inspection fees.—There shall be charged, assessed, and collected for each original examination or inspection of a warehouse under the act, when such examination or inspection is made upon application by a warehouseman, a fee at the rate of \$1 for each 50,000 pounds of the storage capacity, or fraction thereof, determined in accordance with section 112.12 (a), but in no case less than \$10 nor more than \$200, and, for each reexamination or reinspection applied for by such warehouseman, a fee based on the extent of the reexamination or reinspection, proportioned to but not greater than that prescribed for the original examination or inspection.

112.52 Advance deposit.—Before any warehouseman's license or amendment thereto, or any inspector's license, is granted, or an original examination or inspection, or reexamination or reinspection, applied for by a warehouseman, is made, pursuant to these regulations, the warehouseman and/or inspector shall deposit with the Service the amount of the fee prescribed therefor. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post-office or express money order, payable to the order of "Treasurer of the United States."

112.53 Return of excess deposit.—The Treasurer of the United States shall hold in a special deposit account each advance deposit made under section 112.52 until the fee, if any, is assessed and he is furnished by the Service with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

LICENSED INSPECTORS, GRADERS, AND WEIGHERS

112.54 Application forms.—(a) Application for license to inspect, grade, and weigh cold-pack fruit under the act shall be made to the Chief of the Service on forms furnished for the purpose by him.

(b) Each such application shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain (1) the name and location of the warehouse or warehouses licensed, or for which application for license has been made under the act, in which cold-pack fruit sought to be inspected, graded, and weighed under such license is or may be stored; (2) a statement from the warehouseman conducting such warehouse showing whether the applicant is competent and is acceptable to such warehouseman for the purpose; (3) satisfactory evidence that he has had the necessary experience to properly inspect, grade, and weigh the kind of cold-pack fruit for which a license is sought; (4) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as the same may relate to him; and (5) such other information as the Service may deem necessary.

112.55 Examination of applicants.—Each applicant for a license as an inspector, grader, and weigher, and each licensed inspector, grader, and weigher, shall whenever requested by an authorized agent of the Department of Agriculture designated by the Chief of the Service for the purpose, submit to an examination or test to show his ability to perform properly the duties for which he is applying for a license or for which he has been licensed.

112.56 Posting of license.—Each licensed inspector, grader, and weigher shall keep his license conspicuously posted in the office where the receipts are issued.

112.57 Duties of licensees.—Each inspector, grader, and weigher, when requested, shall, without discrimination, as soon as practicable and upon reasonable terms, inspect, grade, and weigh and certificate the condition, grade, and weight of cold-pack fruit stored or to be stored in a licensed warehouse, if such cold-pack fruit be offered to him under such conditions as permit proper inspecting, grading, and weighing. Each such licensee shall give preference to persons who request his services as such over persons who request his services in any other capacity. No inspection, grade, or weight certificate shall be issued under the act for cold-pack fruit not stored or not to be stored in a licensed warehouse.

112.58 Inspector's, grader's, and weigher's certificate; form.—(a) Each inspection, grade, and weight certificate issued under the act by a licensed inspector, grader, and weigher shall be in a form approved for the purpose by the Service and shall embody within its written or printed terms (1) the caption "United States Warehouse Act Cold-Pack Fruit Inspection, Grade, and Weight Certificate"; (2) whether it is an original, duplicate, or other copy; (3) the name and location of the warehouse in which the cold-pack fruit is or is to be stored; (4) the place where and the date and hour when the cold-pack fruit was packed and inspected; (5) the number of barrels or other containers, provided that if the cold-pack fruit is in cans, the size of the cans and the number of cases; (6) the grade of the cold-pack fruit; (7) the kind of cold-pack fruit; (8) the gross, tare, and net weight of the cold-pack fruit when packed; (9) the depositor's name, code mark, and any other identification mark or marks; (10) a statement that the certificate is issued by a licensed inspector, grader, and weigher under the United States Warehouse Act and these regulations; (11) a blank space in which any general remarks on the condition, grade, weight, or other pertinent information may be shown; (12) any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first obtained; (13) a blank space in which the licensed inspector, grader, and weigher at the place where the cold-pack fruit is packed shall indicate the exact date and hour when the cold-pack fruit described in the certificate left the packing plant for the licensed warehouse; (14) a blank space in which the licensed inspector, grader, and weigher at the licensed warehouse shall certify to the exact date and hour when the cold-pack fruit described in the certificate was received at the licensed warehouse and entered the sharp room, and the lot number assigned to it by the warehouseman. Under no circumstances shall certificates be issued for products known to be in violation of Federal or State food and drug laws.

(b) When cold-pack fruit leaves the packing house for the licensed warehouse, the licensed inspector, grader, and weigher who inspected, graded, and weighed said shipment at the packing plant shall insert in the certificate the exact date and hour when the fruit covered by the certificate left the packing plant and shall send under sealed cover, by the quickest available means, the original certificate or certificates describing said shipment, and one copy of each original certificate, to the licensed inspector, grader, and weigher at the licensed warehouse to which said shipment is consigned, who in turn shall insert at the proper place on said certificate the information required by section 112.58 (a) (14) and thereupon deliver the original certificate to the licensed warehouseman with whom the fruit is to be stored.

112.59 Copies of certificates to be kept.—Each licensed inspector, grader, and weigher shall keep for a period of 1 year, in a place accessible to persons financially interested in the cold-pack fruit, a copy of each certificate issued by him under these regulations and shall file a copy of each such certificate with the warehouse in which the cold-pack fruit covered by the certificate is stored.

112.60 Licensees to permit and assist in examination.—Each licensed inspector, grader, and weigher shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to inspect or examine at any time his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations, and shall, with the consent of the warehouseman concerned, assist any such officer or agent in the inspection or examination of records mentioned in section 112.32, as far as any such inspection or examination relates to the performance of the duties of such licensed inspector, grader, and weigher under the act and these regulations.

112.61 Reports.—Each licensed inspector, grader, and weigher shall, from time to time, when requested by the Service, make reports on forms furnished for the purpose by the Service, bearing upon his activities as such licensed inspector, grader, and weigher.

112.62 Licenses—suspension; revocation.—Pending investigation, the Secretary, or his designated representative, may, whenever he deems necessary, suspend the license of an inspector temporarily without hearing. Upon a written request and a satisfactory statement of reasons therefor, submitted by the inspector, or when the inspector has ceased to perform such services at the warehouse, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such inspector. The Secretary, or his designated representative, may, after opportunity for hearing, when possible, has been afforded in the manner described in this section, suspend or revoke a license issued to an inspector, grader, and weigher, when such inspector, grader, and weigher has in any manner become incompetent or incapacitated to perform the duties of a licensed inspector, grader, and weigher. As soon as it shall come to the attention of a warehouseman that any of the conditions mentioned in this section exists, it shall be his duty to notify in writing the Service. Before the license of any inspector, grader, and weigher is suspended or revoked pursuant to section 12 of the act (46 Stat. 1464; 7 U.S.C. 253), such licensee shall be furnished by the Secretary, or by his representative, a written statement specifying the charges, and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with section 112.73.

112.63 Return of suspended or revoked licenses. Termination of license.—(a) If a license issued to an inspector, grader, and weigher is suspended or revoked by the Secretary, or his designated representative, it shall be returned to the Secretary. At the expiration of any period of suspension of a license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the inspector, grader, and weigher to whom it was originally issued, and it shall be posted as prescribed in section 112.56, provided that in the discretion of the Chief of the Service a new license may be issued without reference to such suspension.

(b) Any license issued to an inspector shall automatically be suspended or terminated as to any warehouse whenever the license of such warehouse shall expire or be suspended or revoked. Thereupon the license of such inspector, grader, and weigher shall be returned to the Secretary. If such license is applicable to warehouses other than those for which the licenses have been suspended or revoked, the Secretary or his designated representative shall issue a new license to the inspector, omitting the names of the warehouses for which licenses have been so suspended or revoked. Such new license shall be posted as prescribed in section 112.56.

112.64 Lost or destroyed licenses.—Upon satisfactory proof of the loss or destruction of a license issued to an inspector a duplicate thereof may be issued under the same number.

112.65 Unlicensed inspector, grader, and weigher; misrepresentation.—No person shall in any way represent himself to be an inspector, grader, or weigher under the act unless he holds an unsuspended or unrevoked license under the act.

COLD-PACK FRUIT INSPECTION AND CLASSIFICATION

112.66 Classification; statement of.—Whenever the kind, grade, or other class or condition of cold-pack fruit is required to be or is stated for the purpose of the act and these regulations, it shall be stated in accordance with sections 112.66–112.68.

112.67 Standards to be used.—Until such time as official marketing grades of the United States have been promulgated and are in effect, for the purpose of administering this act and these regulations, the kind and grade of cold-pack fruit shall be stated as far as applicable (a) in accordance with standards, if any, under the Federal Food, Drug, and Cosmetic Act; (b) in the absence of Federal standards, in accordance with the State standards, if any, established by the State in which the warehouse is located; (c) in the absence of any State standards, in accordance with the standards, if any, adopted by any cold-pack

fruit organization or by the cold-pack trade generally in the locality in which the warehouse is located, subject to the disapproval of the Chief of the Service; or (d) in the absence of the aforesaid standards, in accordance with any standards approved by the Chief of the Service.

112.68 Statement of kind; grade; condition.—Whenever the kind, grade, or other class or condition of cold-pack fruit is stated for the purposes of this act and these regulations, the terms used shall be correctly applied and shall be so selected as not to convey a false impression of the cold-pack fruit. In case of doubt as to the kind, grade, or condition of a given lot of cold-pack fruit, a determination shall be made of such facts by drawing samples fairly representative of the contents of the lot of cold-pack fruit offered for storage.

APPEAL OF GRADES

112.69 Procedure.—(a) If a question arises as to whether the kind, grade, or condition of cold-pack fruit was correctly stated in a receipt or inspection certificate issued under the act or these regulations, the warehouseman concerned or any person financially interested in the cold-pack fruit involved may, after reasonable notice to the other party, submit the question to the Chief of the Service, who may appoint a committee to make a determination. The decision of the committee shall be final, unless the Chief shall direct a review of the question. Immediately upon making its decision, the committee shall issue a certificate embodying its findings to the appellants and to the licensee or licensees involved.

(b) If the decision of the committee be that the kind, grade, or condition was not correctly stated, the receipt or certificate involved shall be returned to and be canceled by the licensee who issued it, and the licensee shall issue in lieu thereof a new receipt or certificate embodying therein the statement of kind, grade, or condition in accordance with the findings of the committee.

(c) All necessary and reasonable expenses of such determination shall be borne by the losing party, unless the Chief of the Service or his representative shall decide that the expense shall be prorated between the parties.

MISCELLANEOUS

112.70 Bonds required.—Every person applying for a license or licensed under section 9 of the act (46 Stat. 1464; 7 U.S.C. 248), shall, as such, be subject to all portions of these regulations except section 112.5, so far as they may relate to warehousemen. If there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of cold-pack fruit and to store the same in any of said warehouses, may in lieu of a bond or bonds, complying with sections 112.11–112.12, file with the Secretary or his designated representative a single bond meeting the requirements of the act and these regulations, in such form and in such amount not less than \$5,000, as he shall prescribe, to insure the performance by such person with respect to the acceptance of the custody of cold-pack fruit and its storage in the warehouses in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any modifications or extensions thereof. In fixing the amount of such bond consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State and its liability with respect to such warehouses. If the Secretary or his designated representative shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed a further amount, fixed by him, to meet such conditions.

112.71 Publications.—Publications under the act and these regulations shall be made in Service and Regulatory Announcements of the Agricultural Marketing Service and such other media as the Chief of that Service may from time to time designate for the purpose.

112.72 Information of violations.—Every person licensed under the act shall immediately furnish the Chief of the Service any information which comes to the knowledge of such person tending to show that any provision of the act or these regulations has been violated.

112.73 Procedure in hearings.—For the purpose of a hearing under the act and these regulations, except section 112.69, the licensee involved shall be

allowed a reasonable time, fixed by the Secretary or by an official of the Department of Agriculture designated by him for the purpose, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before, and at a time and place fixed by, the Secretary or an official of the Department of Agriculture designated by him for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held, when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the Secretary or an official of the Department of Agriculture authorized by the Secretary. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

112.74 Combination license.—A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the Chief of the Service.

112.75 Bond, fees, for combination license.—Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Chief of the Service in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees if the full capacity of the warehouse was used for its storage.

112.76 Amendments.—Any amendment to, or revision of, these regulations, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

Done at Washington, D. C., this 2d day of July 1940. Witness my hand and the seal of the Department of Agriculture.



H. Wallace

Secretary of Agriculture.

UNITED STATES WAREHOUSE ACT

[39 United States Statutes at Large, page 486, as amended July 25, 1919, February 23, 1923, and March 2, 1931.]

That this Act shall be known by the short title of "United States Warehouse Act."

SEC. 2. That the term "warehouse" as used in this Act shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this Act, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt.

SEC. 3. That the Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this Act, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this Act; to determine whether warehouses for which licenses are applied for or have

been issued under this Act are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this Act; and to prescribe, within the limitations of this Act, the duties of the warehousemen conducting warehouses licensed under this Act with respect to their care of and responsibility for agricultural products stored therein.

SEC. 4. That the Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this Act and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 5. That each license issued under Sections 4 and 9 of this Act shall terminate as therein provided, or in accordance with the terms of this Act and the regulations thereunder, and may from time to time be modified or extended by a written instrument.

SEC. 6. That each warehouseman applying for a license to conduct a warehouse in accordance with this Act shall, as a condition to the granting thereof execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this Act and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this Act, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

SEC. 7. That any person injured by the breach of any obligation to secure which a bond is given, under the provisions of Sections 6 or 9, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

SEC. 8. That upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this Act, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this Act and no name or description conveying the impression that it is so bonded shall be used until a bond, such as provided for in section 6, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this Act for the conduct of such warehouse remains unsuspended and unrevoked.

SEC. 9. That the Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products, and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this Act and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this Act, and the rules and regulations hereunder affecting warehousemen licensed under this Act, and shall otherwise be subject to this Act, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

SEC. 10. That the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee for every exami-

nation or inspection of a warehouse under this Act when such examination or inspection is made upon application of a warehouseman, and for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under the provisions of this Act, the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee. All such fees shall be deposited and covered into the Treasury as miscellaneous receipts.

SEC. 11. That the Secretary of Agriculture, or his designated representative, may, upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this Act, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this Act and of the rules and regulations prescribed hereunder so far as the same relate to him.

SEC. 12. That any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this Act may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this Act or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 13. That every warehouseman conducting a warehouse licensed under this Act shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

SEC. 14. That any person who deposits agricultural products for storage in a warehouse licensed under this Act shall be deemed to have deposited the same subject to the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 15. That any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act shall be inspected and graded by a person duly licensed to grade the same under this Act.

SEC. 16. That every warehouseman conducting a warehouse licensed under this Act shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

SEC. 17. That for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

SEC. 18. That every receipt issued for agricultural products stored in a warehouse licensed under this Act shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products

received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States Warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this Act as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by a depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however*, The Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

SEC. 19. That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority of any other Act of Congress shall be, and are hereby, adopted for the purposes of this Act as the official standards of the United States for the agricultural products to which they relate.

SEC. 20. That while an original receipt issued under this Act is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this Act.

SEC. 21. That a warehouseman conducting a warehouse licensed under this Act, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipts; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgment that they have been delivered if such signature is requested by the warehouseman.

SEC. 22. That a warehouseman conducting a warehouse licensed under this Act shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

SEC. 23. That every warehouseman conducting a warehouse licensed under this Act shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this Act and the rules and regulations made hereunder.

SEC. 24. That the Secretary of Agriculture is authorized to cause examinations to be made of any agricultural product stored in any warehouse licensed under this Act. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this Act and the rules and regulations made hereunder, the Secretary may publish his findings.

SEC. 25. That the Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this Act, for any violation of or failure to comply with any provision of this Act or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 26. That the Secretary of Agriculture from time to time may publish the results of any investigations made under Section 3 of this Act; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this Act and lists of all licenses terminated under this Act and the causes therefor.

SEC. 27. That the Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this Act and of the warehousemen conducting such warehouses relating thereto.

SEC. 28. That the Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act.

SEC. 29. That in the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This Act shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

SEC. 30. That every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this Act, or who shall violate or fail to comply with any provision of Section 8 of this Act, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this Act or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$10,000, or double the value of the products involved if such double value exceeds \$10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture, for the value of such products to the extent that such owner has not otherwise been reimbursed.

That any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this Act, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than \$500, or imprisoned for not more than six months, or both, in the discretion of the court.

SEC. 31. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, available until expended, for the expenses of carrying into effect the provisions of this Act, including the payment of such rent and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere, and he is authorized, in his discretion, to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the purposes of this Act, and out of the moneys appropriated by this Act to pay the salaries and expenses thereof.

SEC. 32. That if any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 33. That the right to amend, alter, or repeal this Act is hereby expressly reserved.

